

## 44-350.A Overpayment

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### 44-350.A.1 Overpayment

An overpayment is any amount of any aid payment received by the Assistance Unit (AU) that he/she was not entitled to receive. An overpayment may be all or a portion of an aid payment.

This may include:

- Immediate Need
- Homeless Assistance
- Aid Paid Pending (APP) a state hearing

As defined in the following sections: CPG 44-350.C, CPG 44-350.D

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**44-350.A.2  
Establishment  
of  
Overpayment**

Overpayments shall be established as applicable based on the following:

- Recipient failure to report accurately and completely.
- County error.
- County inability to issue the correct grant amount due to 10-day notice requirement when the recipient reported timely, completely, and accurately.

In the CalWORKs program, “late reporting” applies to the timing of mandatory recipient mid-period reports, as well as the timing of the submission of the SAR 7 or redetermination. The Human Services Specialist (HSS) will establish an overpayment based on mandatory reports of information impacting eligibility when the recipient received a grant amount to which he/she was not entitled under Semi-Annual Reporting (SAR) (CPG 44-270) and Annual Reporting/Child Only (AR/CO) (CPG 44-260) rules, regardless of whether the recipient reported timely.

**Note:**

CalWORKs allows recipients the opportunity to waive the 10-day notice requirement in order to avoid incurring an overpayment in their case. HSS shall contact recipients to explain and offer this option in order to avoid incurring an overpayment.

Overpayment shall not be assessed:

- Based on any differences between the amount of income the county reasonably anticipated the recipient would receive during the payment period and the income the recipient actually received during that period, provided the recipient’s reports were complete and accurate.
  - For changes not required to be reported, but that may be voluntarily reported. An overpayment cannot be assessed based on an AU failing to make a voluntary mid-period report, or when the required report does not impact eligibility.
  - For mid-period changes to deprivation, property or household composition, unless the changes are not reported on the following SAR 7 or at redetermination. The changes in deprivation, property and household composition are only required to be reported on the SAR 7 or at redetermination.
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**44-350.A.3  
General**

- The HSS computes overpayments and grant adjustments.
  - Overpayment Specialist Unit (OSU) computes overpayments based on Public Assistance Fraud Division (PAFD) reports and the review/findings of Integrated Fraud Detection (IFD) reports.
  - PAFD investigates and evaluates cases with suspected fraud and determines whether to prosecute.
  - Office of Revenue and Recovery (ORR) demands repayment, establishes collection accounts, and seeks civil judgments for overpayments which can no longer be recouped by grant adjustment.
  - Suspected fraud overpayments that are not prosecuted are evaluated by OSU for an Administrative Disqualification Hearing.
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**44-350.A.4  
Overpayment  
Adjustment**

Overpayment adjustment shall only be started at the beginning of a payment period. Benefit adjustments will be discontinued mid-period as appropriate when the overpayment is recouped.

However, complete recoupment of one overpayment in mid-period may permit the recoupment of another overpayment in the following month (i.e., before the next payment period), the next overpayment recoupment may begin in mid-period as long as the amount being adjusted does not result in the benefits being decreased mid-period.

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**44-350.A.5  
Mandatory  
Reporting**

Per SAR and AR/CO rules, recipients must report the following:

- Fleeing Felon Status;
- Probation/Parole Violations;
- Income over the IRT; and
- Address Changes, including moving out of state mid-quarter.

Refer to CPG 44-260.D and CPG 44-270.G for complete mandatory reporting information.

An overpayment shall be calculated for failure to report all of the above except for address changes when they do not involve a move out of state.

For mandatory mid-period reports, which either result in ineligibility or a decrease to the grant amount, but it is too late to provide 10-day notice of adverse action, the HSS will release benefits for the next month at the previous (higher) level. The HSS will then establish an overpayment, regardless of whether the AU reported the change timely or not.

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**44-350.A.6  
Voluntary  
Reporting**

Changes that are not required to be reported, but may be voluntarily reported, should not be considered when determining overpayments.

When an AU voluntarily reports the acquisition of property in excess of the property limit, the HSS shall not discontinue the recipient's benefits mid-period. The AU shall remain eligible for the entire period. The HSS shall generate a No Change NOA to the household. The recipient must report the information on the next SAR 7 or redetermination.

Voluntary changes need only be reported on the SAR 7 that follows the change. If the change is not reported when the SAR 7 is submitted, that is when the AU shall be considered to have failed to report. In this case, the HSS is required to notify the AU of an incomplete SAR 7, and issue the appropriate NOAs. If the HSS fails to do this, any resulting overpayments will be recorded as Agency Error, with the overpayments established for the amount the AU was not entitled to receive, beginning the SAR Payment Period after the incomplete SAR 7 or redetermination were due.

Refer to CPG 44-260.C and CPG 44-270.H for complete voluntary reporting information.

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**44-350.A.7  
Recoupment**

- Any overpayment which occurred prior to April 2, 1982, which is determined to be nonwillful, shall not be collected except through voluntary repayment.
  - For any willful overpayment which was discovered prior to April 2, 1982, if the maximum adjustment period did not expire prior to April 2, 1982, the adjustment shall continue as long as necessary to recover the overpayment.
  - For any overpayment, which is discovered after April 2, 1982, the overpayment is to be recouped in accordance with regulations in effect on the date of discovery.
  - When the overpayment is determined to be due to excess property, the overpayment is to be recouped in accordance with the regulations set CPG 44-350.F.2.
  - HSSs shall take all reasonable steps necessary to promptly correct and collect all overpayments, regardless of the overpayment amount, except the HSS will not send a demand letter to the liable individual when the liable individual is no longer on aid and the overpayment is less than \$35 and no fraud was involved. See CPG 44-350.A.9.
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**44-350.A.8  
Collecting  
Overpayments**

Responsibility of HSS:

- Determine and compute all overpayments.
- Determine from whom (the adult liable individual) the overpayment can be collected. If the liable individual is no longer in the AU, the overpayment is referred to ORR. Only after all efforts to collect from the liable individual are exhausted, can the overpayment be collected from the AU.

Refer to the following sections for additional information:

CPG 44-250.G.4 Priority of Recovery

CPG 44-350.G.5 Child Only Cases

CPG 44-250.G.6 Minors in Overpaid Assistance Units

Responsibility of OSU:

- OSU computes fraudulent overpayments (received from PAFD).

Active Cases:

The amount that can be recovered is the **total** amount calculated under the CPG 44-350.F Overpayment Calculation section. For active cases CalWIN automatically initiates recoupment once an overpayment is established.

Closed Cases:

If the CalWORKs program discontinues with outstanding overpayments (or if the overpayments are established for closed cases), the claims balance is automatically referred to ORR via the CalWIN / Revenue Plus Collection System (RPCS) interface.

ORR staff shall establish a collection account and shall initiate or re-initiate collection activities on all outstanding overpayments as follows:

<b>If:</b>	<b>Then:</b>
The overpayment is an IPV or fraudulent	ORR will start collection activities on any remaining balance, regardless of the amount
The total (combined) amount of all the remaining overpayments is <b>\$35 or more</b> , and the overpayments are <b>not</b> fraudulent	Collection of overpayments will be demanded from any <b>liable</b> individual of the overpaid AU
The total (combined) amount of all the remaining overpayments is <b>less than</b> \$35, and the overpayments are <b>not</b> fraudulent	Collection of overpayments will <b>not</b> be demanded from any individual of the overpaid AU

**44-350.A.9  
Procedures**

To be able to start or continue collecting an overpayment after the case is discontinued the AU shall have been notified of the

overpayment. Therefore, all closed CalWORKs cases shall be thoroughly reviewed **before** assigning to the closed case bank to ensure:

- Repayment notices and budget worksheets have been sent to the AU for each claim;

**Note:**

- **NOA M44-352A** shall be issued when the overpayment was never collected through grant reduction.
  - **NOA M44-352G** shall be issued when the overpayment was being collected through grant reduction and there is a balance owing.
  - The HSS shall complete required NOA variables, review the notices for information accuracy and issue the NOAs to the liable individual.);
- Refer to CPG 44-350.I.3 section for Non-System Determined Claims; and
  - A complete and clear explanation of the reason for the overpayment and action taken by the worker has been entered into CalWIN Case Comments.

Overpayments not currently being collected, such as when the liable individual for the overpayment leaves the AU or the home of the AU, the HSS shall follow the unlocatable procedures:

- If the overpayment was referred to ORR contact ORR to determine if the person is unlocatable.
  - The HSS shall place a 30 day alert to review for ORR's response.
  - Only after all efforts to collect from the person responsible for the overpayment, can the HSS collect from other members of the AU.
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